

Paul W. HODGSON  
Serial No. 10/522,919  
December 29, 2008

### **REMARKS/ARGUMENTS**

Reconsideration of this application is respectfully requested.

In response to the Examiner's formality-based objections to the specification, the specification has been again reviewed and amended so as to eliminate executable browser code from the specification – and so as to eliminate any possible misinterpretation that a computer program might be defined as a “transmission medium.”

The title has also been amended to be more descriptive.

Accordingly, all outstanding formal issues are now believed to have been resolved in the applicant's favor.

The rejection of claims 1-4, 8-10, 12-15, 22-24, 31-34 and 36 under 35 U.S.C. §103 as allegedly being made “obvious” based on Kim '361 in view of Masuda '432 is respectfully traversed.

Independent claim 32 already explicitly recites reducing the likelihood of a computer virus using messaging software to propagate from a terminal. Other independent claims have been amended above so as to also make it explicit that the recited invention uses a server intermediate a sending and a receiving terminal to analyze

Paul W. HODGSON  
Serial No. 10/522,919  
December 29, 2008

traffic log data as a function of predetermined traffic characteristic criterion corresponding to malicious electronic message traffic.

As will be explained in more detailed below, while Kim does also relate to protection of a user's computer from a virus that may be contained in an incoming e-mail message, Masuda does not appear to have anything whatsoever to do with protection against malicious electronic message traffic. Indeed, even from the face of the two patents, it will be seen that there is no overlap between the fields of search or classifications assigned to the subject matter described in these two quite disparate patents. Kim is at least relevant in that it does teach a prior art attempt to protect against malicious electronic messages. Masuda is irrelevant as it does not teach any such methodology – and there is nothing in either of the references that would lead the hypothetical person of only ordinary skill in the art, without the use of any hindsight, to think about selective modification of either reference in view of the other.

In any event, even if these two references were combined *arguendo*, they still fail to support even a *prima facie* case of obviousness as they both fail to analyze traffic log data as a function of predetermined traffic criterion corresponding to malicious electronic message traffic so as to identify messages that satisfy that criterion.

Kim discloses a system for protecting a user's computer in which incoming e-mails are scanned for viruses (3:28 and 6:1). The disadvantages of such an approach (and other similar approaches in the prior art) are expanded upon in the specification at page 9, line 8, where it is explained that such approach is reactive. That is, by the time a virus has been identified, it may already have caused harm.

In contrast, the present invention requires that traffic log data is analyzed in accordance with predetermined criterion and so as to identify those messages that satisfy that criterion. This feature is not disclosed in Kim, as acknowledged by the Examiner.

Analyzing traffic log data provides an advantage over Kim in that the need to scan individual messages for viruses is reduced, leading to a quicker and more processor-efficient method of virus protection. Furthermore, unlike Kim, the present invention does not require the virus to be known in advance in order for a suspicious e-mail to be detected.

The Examiner asserts that Masuda discloses analyzing means for analyzing log data as a function of predetermined criterion so as to identify those messages that satisfy the criterion. However, Masuda is not concerned with identifying individual messages and recalling these messages. Instead, Masuda is directed to a system for policing traffic flows in order to maintain quality of service requirements.

Paul W. HODGSON  
Serial No. 10/522,919  
December 29, 2008

The type of log data acquired in Masuda is for quantifying "the amounts of the application service provided" (as indicated at paragraph [310] cited by the Examiner). See also paragraph [308], wherein it is explained that "by using the log data collected... the fees for the communication... can be calculated based on the service grade of the network used by the user."

There is no suggestion in Masuda that data suitable for billing purposes is also suitable for detecting suspicious e-mails which may have a virus. In fact, it is very likely that the type of data collected for billing purposes would be completely unsuitable for detecting a virus.

Since Kim is directed to the detection of viruses, a skilled person would not even attempt to combine Masuda with Kim. Further, even if a skilled person did attempt to combine these documents, the resulting combination would not be able to function so as to fall within the applicant's claims.

In any event, Masuda fails to disclose the feature (also absent in Kim) of analyzing traffic log data as a function of predetermined traffic criterion, to identify those messages that satisfy the criterion. The passage at paragraph [228] cited by the Examiner simply relates to the choice of quality of service.

Paul W. HODGSON  
Serial No. 10/522,919  
December 29, 2008

Clearly, enabling a user to choose a quality of service is very different from analyzing log data to determine whether messages satisfy a given criterion. It seems that the log data is first collected, and then used to determine how much a customer should be charged.

Given such fundamental deficiencies of both Kim and Masuda with respect to the above-discussed features of the independent claims, it is not necessary at this time to detail additional deficiencies of this allegedly “obvious” combination of references with respect to other aspects of the rejected claims. Suffice it to note that, as a matter of law, even a *prima facie* case of obviousness requires that the collection of asserted references provide a teaching of each and every feature of each and every rejected claim.

The rejection of claims 5-7 and 16-18 under 35 U.S.C. §103 as allegedly being made “obvious” based on Kim/Masuda in further view of Toyoshima ‘349 is also respectfully traversed.

Fundamental deficiencies of Kim/Masuda have already been noted above with respect to parent claims. Toyoshima does not supply those deficiencies. Accordingly, it is not necessary at this time to discuss the additional deficiencies of this allegedly “obvious” combination of three references with respect to other aspects of the rejected claims.

Paul W. HODGSON  
Serial No. 10/522,919  
December 29, 2008

The rejection of claims 11, 19 and 35 under 35 U.S.C. §103 as allegedly being made “obvious” based on Kim/Masuda in further view of Tarbotton ‘830 is also respectfully traversed.

Once again, fundamental deficiencies of Kim/Masuda have already been noted above with respect to parent claims. Tarbotton does not supply those deficiencies and, therefore, it is not necessary at this time to discuss the additional deficiencies of this allegedly “obvious” three-way combination of references.

The rejection of claim 20 under 35 U.S.C. §103 as allegedly being made “obvious” based on Kim in view of Toyoshima ‘349 is also respectfully traversed.

Here, it is noted that the Examiner has already admitted that Kim fails to teach receiving traffic log data based on at least one traffic characteristic (e.g., see page 4, lines 9-10 of the outstanding office action). Earlier, the Examiner relied upon Masuda for teaching this admitted deficiency. Now, in rejecting claim 20, the Examiner does not even mention this requirement of claim 20! Accordingly, this ground of rejection is clearly erroneous on its face and need not be further discussed. Suffice it to note that Toyoshima also fails to supply the above-noted deficiencies of Kim/Masuda.

Paul W. HODGSON  
Serial No. 10/522,919  
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The rejection of claim 21 under 35 U.S.C. §103 as allegedly being made “obvious” based on Kim/Toyoshima in further view of Tarbotton ‘830 is similarly respectfully traversed.

Once again, the Examiner fails to address the earlier admitted deficiency of Kim with respect to the requirement of claim 21 (via its parent claim 20) of receiving traffic log data defining at least one message traffic characteristic, etc., and analyzing such traffic log data as a function of specified traffic characteristic criterion corresponding to malicious electronic message traffic, etc.

Accordingly, once again, this ground of rejection is clearly erroneous even on the face of the office action itself.

The rejection of claims 25-30 under 35 U.S.C. §103 as allegedly being made “obvious” based on Kim/Masuda in further view of Khanna ‘604 is also respectfully traversed.

Fundamental deficiencies of Kim/Masuda have already been noted above for parent claim 1. Khanna does not supply those deficiencies. Accordingly, it is not necessary at this time to discuss the additional deficiencies of this allegedly “obvious” three-way combination of references with respect to the additional aspects of these rejected claims.

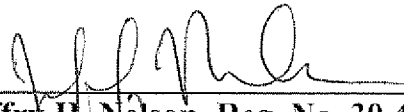
Paul W. HODGSON  
Serial No. 10/522,919  
December 29, 2008

Accordingly, this entire application is now believed to be in condition for allowance, and a formal notice to that effect is earnestly solicited.

Respectfully submitted,

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